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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/001,497	11/14/2001	Leola Henry	PIL0123/US	3217
33072	7590	10/26/2005	EXAMINER	
KAGAN BINDER, PLLC SUITE 200, MAPLE ISLAND BUILDING 221 MAIN STREET NORTH STILLWATER, MN 55082			TRAN LIEN, THUY	
			ART UNIT	PAPER NUMBER
			1761	

DATE MAILED: 10/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/001,497

Applicant(s)

HENRY ET AL.

Examiner

Lien T. Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hansen et al in view of the Professional Baking cookbook and Hahn et al.

Hansen et al disclose freeze to oven dough products. The frozen dough is subjected to cooking cycle without a thawing and proofing step. The dough comprises flour, 1-20% fat , 1-25% sugar, 40-80% water, .1-12% protein and a combined leavening system in the range of .11-10%. The dough may simply be formed into the desired shape and then frozen if a laminated dough product is not desired. The dough is used to make a variety of products including but not limited to Danish, brioche, sweet rolls and the like. Hansen et al also disclose dough product in the form having a smear layer located between adjacent portions of the dough such as in a cinnamon roll. ( see col. 4 lines 39-55, col. 5 lines 36-40, col. 8 lines 54-63, col. 9 lines 45-)

Hansen et al do not disclose a biscuit having a smear layer with water activity compatible with the layer, the amount of flour and water as claimed, the specific volume as claimed, the smear and dough having the water activity as recited in claim 4 , the smear flavor as in claims 11, 12,14,15, the weight of the biscuit as in claims 5-8.

The Professional Baking cookbook teaches the mixing of ingredients to make biscuit and formulas used for biscuit. The ingredients are mixed to form a soft dough, but it is not overmix.

Hahn et al disclose dough product incorporating filling. The filling comprises fat, sugar, and flavorants. The filling is adjusted to have a water activity to be substantially equivalent to the water activity of the dough to reduce or eliminate moisture migration. The sugar can be corn syrup solid, brown sugar, maple sugar, molasses, sucrose etc..

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and mixtures of these sugars. The flavorants include spices, cream cheese, orange, fruit, fruit extract, cinnamon etc.... The fillings are used in conjunction with doughs to provide filled dough products. The fillings can be utilized with any type of dough to form any dough product that is desirably filled. The filled dough product is frozen. Examples of dough products include biscuits, croissants, scones, dinner rolls etc.. The filling has a water activity of at least about .725.(see columns 4-12 and example 1). Example 3 shows the a filled dough product is formed by spreading the filling on the dough sheet and rolling the filled dough sheet to form rolled dough product which is stored and baked before consumption.

Hansen et al disclose other dough products can be made from the dough; thus, it would have been obvious to one skilled in the art to make a biscuit product from the dough because Hansen et al teach various dough products can be made from the dough and the dough contains the same ingredients required for making biscuit as shown by the cookbook. The making of biscuit is known as shown by the cookbook. It would have been obvious to one skilled in the art to vary the ingredients such as flour and water and the way the dough is processed to make different dough products from a dough. For example, if one wants to make a biscuit, it would have been obvious to not overmix the ingredients as shown by the cookbook and to use liquid and flour in close proportion to form a soft dough. Of course, the liquid and flour can vary over a range depending on the texture wanted for the biscuit. Determining the appropriate amounts of flour and water for biscuit would only require routine experimentation for one skilled in the art. As to the formation of a swirl, Hansen et al teach such configuration with

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respect to cinnamon roll. It would have been obvious to one skilled in the art to use such configuration for biscuit to obtain different flavor and taste in one convenient product. The addition of a flavoring smear to biscuit is not contrary because biscuit is usually consumed with honey, jam, butter or anything other flavoring. It would have been obvious to make the smear to have a water activity compatible with the biscuit to prevent moisture migration as taught by Hahn et al. It would also have been obvious to use the filling disclosed by Hahn et al disclose in a biscuit if the taste and flavor provided by the filling are wanted; Hahn et al disclose the filling can be used in product such as biscuits, bagels, scone, rolls etc.... It would have been obvious to add different flavoring materials depending on the flavor wanted for the product. For example, if a cheese filling is wanted, it would have been obvious to add cheese flavor. It would have been obvious to substitute margarine or butter for shortening because such substitution is well known in the art and margarine or butter provides better taste and flavor. It would also have been obvious to make the biscuit product in any size desired; this would have been an obvious matter of choice. When a biscuit is formed, it is obvious the water activity is the same as claimed because it is the same product. The specific volume can vary depending on the type of baked product. However, since the amount of leavening agent in the dough of Hansen et al fall within the range, it is expected the specific volume would fall within the range claimed.


Applicant's arguments with respect to claims 1-17 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien T. Tran whose telephone number is 571-272-1408. The examiner can normally be reached on Tuesday, Thursday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cano Milton can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

October 21, 2005

  
LIEN TRAN  
PRIMARY EXAMINER  
